

Senate File 466 - Introduced

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 1190)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of the tax and related
2 laws, including the administration of the income tax, the
3 franchise tax, hotel and motel tax, the motor fuel tax, and of
4 fees for new vehicle registration, modifying certain civil
5 penalties, providing an exemption filing deadline extension
6 and for the abatement or refund of property taxes for certain
7 property owners, changing the ownership interest provisions
8 related to certain automobile racetrack facilities, and
9 including effective date, retroactive applicability date, and
10 other applicability date provisions.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
12 TLSB 1363SV 83
13 tw/mg:sc/14

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1 1 DIVISION I
1 2 HOUSING ASSISTANCE WITHHOLDING CREDITS
1 3 Section 1. Section 15E.196, subsection 1, paragraph b,
1 4 Code 2009, is amended by striking the paragraph.
1 5 DIVISION II
1 6 ENDOW IOWA DONATIONS
1 7 Sec. 2. Section 15E.305, subsection 1, Code 2009, is
1 8 amended to read as follows:
1 9 1. For tax years beginning on or after January 1, 2003, a
1 10 tax credit shall be allowed against the taxes imposed in
1 11 chapter 422, divisions II, III, and V, and in chapter 432, and
1 12 against the moneys and credits tax imposed in section 533.329
1 13 equal to ~~twenty~~ twenty-five percent of a taxpayer's endowment
1 14 gift to an endow Iowa qualified community foundation. An
1 15 individual may claim a tax credit under this section of a
1 16 partnership, limited liability company, S corporation, estate,
1 17 or trust electing to have income taxed directly to the
1 18 individual. The amount claimed by the individual shall be
1 19 based upon the pro rata share of the individual's earnings
1 20 from the partnership, limited liability company, S
1 21 corporation, estate, or trust. A tax credit shall be allowed
1 22 only for an endowment gift made to an endow Iowa qualified
1 23 community foundation for a permanent endowment fund
1 24 established to benefit a charitable cause in this state. The
1 25 amount of the endowment gift for which the tax credit is
1 26 claimed shall not be deductible in determining taxable income
1 27 for state income tax purposes. Any tax credit in excess of
1 28 the taxpayer's tax liability for the tax year may be credited
1 29 to the tax liability for the following five years or until
1 30 depleted, whichever occurs first. A tax credit shall not be
1 31 carried back to a tax year prior to the tax year in which the
1 32 taxpayer claims the tax credit.
1 33 Sec. 3. Section 15E.305, subsection 2, unnumbered
1 34 paragraph 1, Code 2009, is amended to read as follows:
1 35 The aggregate amount of tax credits authorized pursuant to
2 1 this section shall not exceed a total of ~~two~~ three million
2 2 dollars plus such additional credit amount as provided by this
2 3 section annually. The maximum amount of tax credits granted
2 4 to a taxpayer shall not exceed five percent of the aggregate
2 5 amount of tax credits authorized.
2 6 Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This division
2 7 of this Act takes effect January 1, 2010, and applies to tax
2 8 years beginning on or after that date.

DIVISION III

NEW REGISTRATION FEES

2 9
2 10
2 11 Sec. 5. Section 321.105A, subsection 2, paragraph c,
2 12 subparagraph (25), unnumbered paragraph 1, Code 2009, is
2 13 amended to read as follows:

2 14 Vehicles subject to registration under this chapter with a
2 15 gross vehicle weight rating of less than sixteen thousand
2 16 pounds, ~~excluding motorcycles and motorized bicycles~~, when
2 17 purchased for lease and titled by the lessor licensed pursuant
2 18 to chapter 321F and actually leased for a period of twelve
2 19 months or more if the lease of the vehicle is subject to the
2 20 fee for new registration under subsection 3.

2 21 Sec. 6. Section 321.105A, subsection 3, paragraph a, Code
2 22 2009, is amended to read as follows:

2 23 a. A fee for new registration is imposed in an amount
2 24 equal to five percent of the leased price for each vehicle
2 25 subject to registration with a gross vehicle weight rating of
2 26 less than sixteen thousand pounds, ~~excluding motorcycles and~~
2 27 ~~motorized bicycles~~, which is leased by a lessor licensed
2 28 pursuant to chapter 321F for a period of twelve months or
2 29 more. The fee for new registration shall be paid by the owner
2 30 of the vehicle to the county treasurer from whom the
2 31 registration receipt or certificate of title is obtained. A
2 32 registration receipt for a vehicle subject to registration or
2 33 issuance of a certificate of title shall not be issued until
2 34 the fee for new registration is paid in the initial instance.

2 35 Sec. 7. Section 321.105A, subsection 5, paragraph a, Code
3 1 2009, is amended by striking the paragraph.

DIVISION IV

ASSISTIVE DEVICE TAX CREDIT

3 4 Sec. 8. Section 422.33, subsection 9, Code 2009, is
3 5 amended by striking the subsection.

3 6 Sec. 9. Section 422.11E, Code 2009, is repealed.

DIVISION V

COMPOSITE RETURNS

3 9 Sec. 10. Section 422.13, subsection 5, Code 2009, is
3 10 amended to read as follows:

3 11 5. a. Notwithstanding subsections 1 through 4 and
3 12 sections 422.15 and 422.36, a partnership, a limited liability
3 13 company whose members are taxed on the company's income under
3 14 provisions of the Internal Revenue Code, trust, or corporation
3 15 whose stockholders are taxed on the corporation's income under
3 16 the provisions of the Internal Revenue Code may, not later
3 17 than the due date for filing its return for the taxable year,
3 18 including any extension thereof, elect to file a composite
3 19 return for the nonresident partners, members, beneficiaries,
3 20 or shareholders. Nonresident trusts or estates which are
3 21 partners, members, beneficiaries, or shareholders in
3 22 partnerships, limited liability companies, trusts, or S
3 23 corporations may also be included on a composite return. The
3 24 director may require that a composite return be filed under
3 25 the conditions deemed appropriate by the director. A
3 26 partnership, limited liability company, trust, or corporation
3 27 filing a composite return is liable for tax required to be
3 28 shown due on the return.

3 29 b. ~~Notwithstanding subsection 1 through 4 and sections~~
3 30 ~~422.15 and 422.36, if the director determines that it is~~
3 31 ~~necessary for the efficient administration of this chapter,~~
3 32 ~~the director may require that a composite return be filed for~~
3 33 ~~nonresidents other than nonresident partners, members,~~
3 34 ~~beneficiaries or shareholders in partnerships, limited~~
3 35 ~~liability companies, trusts, or S corporations.~~

4 1 c. All powers of the director and requirements of the
4 2 director apply to returns filed under this subsection
4 3 including, but not limited to, the provisions of this division
4 4 and division VI of this chapter.

DIVISION VI

UNDERPAYMENT OF ESTIMATED TAXES

4 7 Sec. 11. Section 422.88, subsections 2 and 3, Code 2009,
4 8 are amended to read as follows:

4 9 2. The amount of the underpayment shall be the excess of
4 10 the amount of the installment which would be required to be
4 11 paid if the estimated tax was equal to ~~ninety one hundred~~
4 12 percent of the tax shown on the return of the taxpayer for the
4 13 taxable year over the amount of installments paid on or before
4 14 the date prescribed for payment.

4 15 3. If the taxpayer did not file a return during the
4 16 taxable year, the amount of the underpayment shall be equal to
4 17 ~~ninety one hundred~~ percent of the taxpayer's tax liability for
4 18 the taxable year over the amount of installments paid on or
4 19 before the date prescribed for payment.

4 20 Sec. 12. RETROACTIVE APPLICABILITY. This division of this
4 21 Act applies retroactively to January 1, 2009, for tax years
4 22 beginning on or after that date.

4 23 DIVISION VII

4 24 VIOLATIONS OF THE MOTOR FUEL TAX LAWS

4 25 Sec. 13. Section 452A.74A, subsections 1, 2, and 5, Code
4 26 2009, are amended to read as follows:

4 27 1. ILLEGAL USE OF DYED FUEL. The illegal use of dyed fuel
4 28 in the supply tank of a motor vehicle shall result in a civil
4 29 penalty assessed against the owner or operator of the motor
4 30 vehicle as follows:

4 31 a. A ~~two five~~ hundred dollar ~~fine~~ penalty for the first
4 32 violation.

4 33 b. A ~~five hundred one thousand~~ dollar ~~fine~~ penalty for a
4 34 second violation within three years of the first violation.

4 35 c. A ~~one two~~ thousand dollar ~~fine~~ penalty for third and
5 1 subsequent violations within three years of the first
5 2 violation.

5 3 2. ILLEGAL IMPORTATION OF UNTAXED FUEL. A person who
5 4 imports motor fuel or undyed special fuel without a valid
5 5 importer's license or supplier's license shall be assessed a
5 6 civil penalty as provided in this subsection. However, the
5 7 owner or operator of the importing vehicle shall not be guilty
5 8 of violating this subsection if it is shown by the owner or
5 9 operator that the owner or operator reasonably did not know or
5 10 reasonably should not have known of the illegal importation.

5 11 a. For a first violation, the importing vehicle shall be
5 12 detained and a ~~fine~~ penalty of ~~two four~~ thousand dollars shall
5 13 be paid before the vehicle will be released. The owner or
5 14 operator of the importing vehicle or the owner of the fuel may
5 15 be held liable for payment of the ~~fine~~ penalty.

5 16 b. For a second violation, the importing vehicle shall be
5 17 detained and a ~~fine~~ penalty of ~~five ten~~ thousand dollars shall
5 18 be paid before the vehicle will be released. The owner or
5 19 operator of the importing vehicle or the owner of the fuel may
5 20 be held liable to pay the ~~fine~~ penalty.

5 21 c. For third and subsequent violations, the importing
5 22 vehicle and the fuel shall be seized and a ~~fine~~ penalty of ~~ten~~
5 23 ~~twenty~~ thousand dollars shall be paid before the vehicle will
5 24 be released. The owner or operator of the importing vehicle
5 25 or the owner of the fuel may be held liable to pay the ~~fine~~
5 26 ~~penalty~~.

5 27 d. If the owner or operator of the importing vehicle or
5 28 the owner of the fuel fails to pay the tax and ~~fine~~ penalty
5 29 for a first or second offense, the importing vehicle and the
5 30 fuel may be seized. The department of revenue, the state
5 31 department of transportation, or any peace officer, at the
5 32 request of either department, may seize the vehicle and the
5 33 fuel.

5 34 e. If the operator or owner of the importing vehicle or
5 35 the owner of the fuel ~~move~~ moves the vehicle or the fuel after
6 1 the vehicle has been detained and a sticker has been placed on
6 2 the vehicle stating that "This vehicle cannot be moved until
6 3 the tax, penalty, and interest have been paid to the
6 4 Department of Revenue", an additional penalty of ~~five ten~~
6 5 thousand dollars shall be assessed against the operator or
6 6 owner of the importing vehicle or the owner of the fuel.

6 7 f. For purposes of this subsection, "vehicle" means as
6 8 defined in section 321.1.

6 9 5. PREVENTION OF INSPECTION. The department of revenue or
6 10 the state department of transportation may conduct inspections
6 11 for coloration, markers, and shipping papers at any place
6 12 where taxable fuel is or may be loaded into transport
6 13 vehicles, produced, or stored. Any attempts by a person to
6 14 prevent, stop, or delay an inspection of fuel or shipping
6 15 papers by authorized personnel shall be subject to a civil
6 16 penalty of not more than ~~one two~~ thousand dollars per
6 17 occurrence. Any law enforcement officer or department of
6 18 revenue or state department of transportation employee may
6 19 physically inspect, examine, or otherwise search any tank,
6 20 reservoir, or other container that can or may be used for the
6 21 production, storage, or transportation of any type of fuel.

6 22 DIVISION VIII

6 23 HOTEL AND MOTEL TAX

6 24 Sec. 14. Section 423A.5, subsection 1, paragraph c, Code
6 25 2009, is amended by striking the paragraph.

6 26 Sec. 15. Section 423A.5, subsection 2, paragraph c, Code
6 27 2009, is amended by striking the paragraph.

6 28 DIVISION IX

6 29 AUTOMOBILE RACETRACK FACILITIES

6 30 Sec. 16. Section 423.4, subsection 5, paragraph a,

6 31 subparagraphs (2), (3), and (4), Code 2009, are amended to
6 32 read as follows:

6 33 (2) "Change of control" means any of the following:

6 34 (a) Any change in the ownership of the original or any
6 35 subsequent legal entity that is the owner or operator of the
7 1 automobile racetrack facility such that ~~at least sixty less~~
7 2 ~~than twenty=five~~ percent of the equity interests in the legal
7 3 entity ~~cease to be~~ is owned by individuals who are residents
7 4 of Iowa, an Iowa corporation, or combination of both.

7 5 (b) The original owners of the legal entity that is the
7 6 owner or operator of the automobile racetrack facility shall
7 7 collectively cease to own ~~more than fifty at least twenty=five~~
7 8 percent of the voting equity interests of such legal entity ~~or~~
7 9 ~~shall otherwise cease to have effective control of such legal~~
7 10 ~~entity.~~

7 11 (3) "Iowa corporation" means a corporation incorporated
7 12 under the laws of Iowa where at least ~~sixty~~ ~~twenty=five~~
7 13 percent of the corporation's equity interests are owned by
7 14 individuals who are residents of Iowa.

7 15 (4) "Owner or operator" means a for-profit legal entity
7 16 where at least ~~sixty~~ ~~twenty=five~~ percent of its equity
7 17 interests are owned by individuals who are residents of Iowa,
7 18 an Iowa corporation, or combination of both and that is the
7 19 owner or operator of an automobile racetrack facility and is
7 20 primarily a promoter of motor vehicle races.

7 21 Sec. 17. Section 423.4, subsection 5, paragraph c,
7 22 subparagraph (4), Code 2009, is amended to read as follows:

7 23 (4) Notwithstanding subparagraph (3), the rebate of sales
7 24 tax shall cease for transactions occurring on or after the
7 25 date of the ~~sale or other transfer, whether voluntarily or~~
7 26 ~~involuntarily, of the automobile racetrack facility to a party~~
7 27 ~~other than the original owner of the facility or upon a change~~
7 28 of control of ~~such the automobile racetrack~~ facility.

7 29 DIVISION X

7 30 PROPERTY TAX EXEMPTION FILINGS

7 31 Sec. 18. DISASTER=IMPACTED EXEMPTION. Notwithstanding the
7 32 requirement for the filing of a claim for property tax
7 33 exemption by February 1, and notwithstanding any other
7 34 provisions to the contrary, a society or organization claiming
7 35 an exemption under section 427.1, subsection 14, may file for
8 1 an exemption with the local assessor by May 1, 2009, for
8 2 property that is located in a county declared a disaster area
8 3 in calendar year 2008, if the society or organization was
8 4 unable to file for the exemption as a result of the inability
8 5 or failure to file for the exemption caused by the need to
8 6 respond to a natural disaster occurring in calendar year 2008.

8 7 Sec. 19. EFFECTIVE DATE. This division of this Act, being
8 8 deemed of immediate importance, takes effect upon enactment.

8 9 DIVISION XI

8 10 REFUND OF PROPERTY TAXES

8 11 Sec. 20. 2007 Iowa Acts, chapter 186, section 29, is
8 12 amended to read as follows:

8 13 SEC. 29. REFUND OF PROPERTY TAXES. Notwithstanding the
8 14 deadline for filing a claim for property tax exemption for
8 15 property described in section 427.1, subsection 8 or 9, and
8 16 notwithstanding any other provision to the contrary, the board
8 17 of supervisors of a county having a population based upon the
8 18 latest federal decennial census of more than eighty=eight
8 19 thousand but not more than ninety=five thousand shall refund
8 20 the property taxes paid, with all interest, penalties, fees,
8 21 and costs which were due and payable in the fiscal year
8 22 beginning July 1, 2002, and in the fiscal year beginning July
8 23 1, ~~2005~~ ~~2006~~, on the land and buildings of an institution that
8 24 purchased property and that did not receive a property tax
8 25 exemption for the property due to the inability or failure to
8 26 file for the exemption. To receive the refund provided for in
8 27 this section, the institution shall apply to the county board
8 28 of supervisors by October 1, ~~2007~~ ~~2009~~, and provide
8 29 appropriate information establishing that the land and
8 30 buildings for which the refund is sought were used by the
8 31 institution for its appropriate objectives during the fiscal
8 32 year beginning July 1, 2002, and during the fiscal year
8 33 beginning July 1, ~~2005~~ ~~2006~~. The refund allowed under this
8 34 section only applies to property taxes, with all interest,
8 35 penalties, fees, and costs, due and payable in the fiscal year
9 1 beginning July 1, 2002, and in the fiscal year beginning July
9 2 1, ~~2005~~ ~~2006~~.

9 3 Sec. 21. 2007 Iowa Acts, chapter 186, section 30, is
9 4 amended to read as follows:

9 5 SEC. 30. IMMEDIATE EFFECTIVE DATE. ~~The section~~ ~~Section 29~~
9 6 of this division of this Act, ~~amending section 427.3,~~ being

9 7 deemed of immediate importance, takes effect upon enactment
9 8 and applies retroactively to property taxes due and payable in
9 9 the fiscal year beginning July 1, 2002, and in the fiscal year
9 10 beginning July 1, ~~2005~~ 2006.

9 11 Sec. 22. EFFECTIVE DATE. This division of this Act, being
9 12 deemed of immediate importance, takes effect upon enactment.

9 13 EXPLANATION

9 14 This bill relates to the administration of the tax and
9 15 related laws by the department of revenue, including the
9 16 administration of the income tax, the franchise tax, the motor
9 17 fuel tax, and of fees for new vehicle registration.

9 18 Current law provides incentives and assistance to eligible
9 19 businesses located in enterprise zones. One of these
9 20 incentives is a 1.5 percent match as part of a housing
9 21 assistance program funded through a credit from withholding
9 22 based on the wages paid to employees participating in the
9 23 program. Division I of the bill strikes the provisions of the
9 24 Code that authorize such a program.

9 25 Division II of the bill relates to the endow Iowa program.
9 26 The program provides for a tax credit of up to 20 percent of a
9 27 taxpayer's contribution to a qualified community foundation.
9 28 Current law allows a taxpayer to take a deduction for the
9 29 contribution in addition to claiming the tax credit. The
9 30 aggregate amount of tax credits, not including certain
9 31 additional amounts authorized in section 15E.305, subsection
9 32 2, that may be issued under the program is \$2 million.
9 33 Division II of the bill increases the total aggregate limit to
9 34 \$3 million, increases the percentage of a contribution that
9 35 may be claimed to 25 percent, and eliminates the ability to
10 1 take a deduction on a contribution for which a taxpayer is
10 2 claiming a credit under the program.

10 3 Division III of the bill relates to fees on new
10 4 registration of motorcycle leases. Code section 321.105A
10 5 currently provides that a person who purchases for lease a
10 6 motor vehicle weighing under 16,000 pounds, other than
10 7 motorcycles and motorized bicycles, does not pay the fee for
10 8 new registration if the motor vehicle is leased for 12 months
10 9 or more. Instead, a person who leases such a motor vehicle
10 10 pays a fee for new registration equal to 5 percent of the
10 11 lease price. The bill eliminates the exclusion of leased
10 12 motor vehicles from the provision, making them subject to the
10 13 same registration fees as other vehicles under 16,000 pounds.

10 14 Current law provides that dealers must collect a fee on new
10 15 registration of vehicles at the time of making a sale.
10 16 Division III of the bill eliminates this requirement.

10 17 Division IV of the bill repeals the assistive device tax
10 18 credit under the individual and corporate income taxes.

10 19 Division V of the bill provides that if the director
10 20 determines that it is necessary for the efficient
10 21 administration of the income tax, the director may require
10 22 that a composite return be filed for nonresidents other than
10 23 nonresident partners, members, beneficiaries or shareholders
10 24 in partnerships, limited liability companies, trusts, or S
10 25 corporations.

10 26 Division VI of the bill increases the standard for the
10 27 exception to the penalty for making underpayments of estimated
10 28 tax by corporations and financial institutions from 90 percent
10 29 of the tax liability to the full amount of the tax liability.
10 30 The effect of the change is to calculate underpayments under
10 31 Iowa law the same as calculating them under federal law. This
10 32 change applies retroactively to January 1, 2009, for tax years
10 33 beginning on or after that date.

10 34 Under current law, civil penalties are imposed for certain
10 35 violations of the motor fuel and special fuel tax laws in
11 1 addition to any taxes due. Division VII of the bill increases
11 2 the penalties for the illegal use of dyed fuel in the supply
11 3 tank of a motor vehicle to \$500 for the first violation,
11 4 \$1,000 for a second violation within three years of the first
11 5 violation, and \$2,000 for the third violation, and for each
11 6 subsequent violation, within three years of the first
11 7 violation.

11 8 The division increases the penalties for the illegal
11 9 importation of untaxed fuel to \$4,000 for the first violation
11 10 and \$10,000 for a second violation, and \$20,000 for the third
11 11 violation and for each subsequent violation. The additional
11 12 penalty assessed for moving a vehicle that has been detained
11 13 for the illegal importation of untaxed fuel is increased to
11 14 \$10,000.

11 15 The division increases the penalty for preventing the
11 16 inspection of fuel to \$2,000 per occurrence.

11 17 Division VIII of the bill relates to the state and local

11 18 hotel and motel tax by making taxable certain transactions
11 19 exempt from the sales tax. Current law exempts from the state
11 20 and local hotel and motel tax the sales price from
11 21 transactions also exempt from the state sales tax under Code
11 22 section 423.3. Division IV of the bill makes these
11 23 transactions subject to the state and local hotel and motel
11 24 tax.

11 25 Division IX of the bill relates to the ownership and
11 26 control of automobile racetrack facilities. Current law
11 27 provides definitions for "change of control", "Iowa
11 28 corporation", and "owner or operator" that all use a 60
11 29 percent threshold to determine whether ownership or control is
11 30 by Iowa residents. Division IX changes the threshold to 25
11 31 percent.

11 32 Current law also provides for a sales tax rebate to the
11 33 owners of automobile racetrack facilities. This rebate ceases
11 34 upon the sale or other transfer of the facility to another
11 35 party or upon a change in control. Division IX of the bill
12 1 eliminates the cessation upon sale or transfer so that the
12 2 rebate only ceases upon a change in control.

12 3 Division X of the bill relates to property tax exemption
12 4 filings. To be eligible for an exemption, the owners of
12 5 certain exempt property must file for the exemption by
12 6 February 1. Division X of the bill provides that
12 7 notwithstanding the February 1 deadline, the owners of such
12 8 property have until May 1 to file for an exemption. To be
12 9 eligible for the May 1 filing deadline, the property must be
12 10 located in an area declared a disaster area in calendar year
12 11 2008 and must have missed the February 1 filing deadline as a
12 12 result of the natural disasters occurring in that year. The
12 13 division is effective upon enactment.

12 14 Division XI of the bill relates to property tax refunds.
12 15 2007 Iowa Acts, chapter 186, section 29, provided a refund to
12 16 certain owners of exempted property for fiscal years beginning
12 17 July 1, 2002, and July 1, 2005. Division XI of the bill
12 18 changes the refund for the second fiscal year from July 1,
12 19 2005, to July 1, 2006. The division is effective upon
12 20 enactment and applies retroactively to the fiscal years
12 21 beginning July 1, 2002, and July 1, 2006.

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